



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,814	01/31/2002	Kristy M. Killeen	PPC-827	5894

27777 7590 05/26/2004

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

EXAMINER

KIDWELL, MICHELE M

ART UNIT	PAPER NUMBER
----------	--------------

3761

DATE MAILED: 05/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/062,814

Applicant(s)

KILLEEN ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/31/02 & 5/1/02</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- Reference number 78 is not shown in the figures

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

- Reference number 28 as shown in figure 3 is not mentioned in the description

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Interpretation

The applicant claims that the central pad adhesive is in vertical alignment with at least a portion of the absorbent core and that the flap adhesive is not vertically aligned with any portion of the absorbent core when the flaps are in an unfolded position.

Inasmuch as the applicant has supported a central pad being in vertical alignment with at least a portion of the absorbent core and flap adhesive that is not vertically aligned with any portion of the absorbent core when the flaps are in an unfolded position (page 10, lines 17 – 20 and figure 3 of the instant specification), the examiner interprets the “vertically aligned” language as meaning when the flap adhesive is spaced apart from the central absorbent pad adhesive and is also spaced apart from the absorbent core, then that is considered as “not vertically aligned”. Likewise, when adhesive is not spaced apart from the absorbent core, then that is considered as “vertically aligned”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 – 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Sturino (US 5,713,886).

With reference to claim 1, Sturino discloses a sanitary napkin adapted to be worn in a user's thong undergarment (10), the thong undergarment having a body faceable side and a garment faceable side in use, the sanitary napkin comprising a central absorbent pad, the central absorbent pad having a liquid pervious cover layer (14), a liquid impervious barrier (16) layer and an absorbent core between the cover layer and barrier layer (12), the sanitary napkin having a longitudinal and lateral centerline (figure 1), a first distal end region (indicated by W1 at the bottom of figure 1), an opposite second distal end region (indicated by W2 at the top of figure 1) and a central region intermediate the first distal end region and the second distal end region (the area between W1 and W2 as show in figure 1), at least a portion of the absorbent core in the second distal end region having a maximum width that is greater than a maximum width of the absorbent core in the first distal end region (col. 2, lines 12 – 16) and a pair of flaps extending laterally outward from each longitudinal side edge (26, 30) along a line of juncture, including a first flap (26) being substantially adjacent the lateral centerline (figure 1) and adapted to fold over a crotch portion of a thong undergarment in use (col. 3, lines 12 – 16), and a second flap (30) being intermediate the first flap and the first distal end (figure 1) and being adapted to folded over the posterior portion of the thong undergarment in use (col. 3, lines 12 – 16), the central absorbent pad having a central absorbent pad adhesive (38, 40, 42) that is in vertical alignment with at least a portion of the absorbent core (figure 1) and is adapted to contact the body faceable side of the thong undergarment in use (col. 3, lines 20 – 23), each flap having flap adhesive (34) adapted to contact the garment faceable side of the

Art Unit: 3761

thong undergarment in use (col. 3, lines 20 – 23), the flap adhesive being spaced apart from the central absorbent pad adhesive and is not vertically aligned with any portion of the absorbent core when the flaps are in an unfolded position as shown in figure 1.

With reference to claim 3, Sturino discloses a sanitary absorbent article wherein the central absorbent pad adhesive is a plurality of relatively narrow stripes (38, 40, 42) as shown in figure 1.

With respect to claim 4, Sturino discloses a sanitary absorbent article wherein the first distal end has a width of less than 30 mm as set forth in col. 2, lines 37 – 39.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturino as applied to claims 1 and 3 – 4 above, and further in view of Drevik (US 2001/0031956).

The difference between Sturino and claim 2 is the provision that the absorbent core has a width and the central absorbent pad adhesive has a width that is the same as the width of the absorbent core.

Art Unit: 3761

Drevik teaches an absorbent core has a width and the central absorbent pad adhesive has a width that is the same as the width of the absorbent core as set forth in figure 1.

The configuration of the tapered absorbent is depicted by the dashed line in figure 1. This contention is supported by the fact that the reference states on page 2 in paragraph 0011 that imaginary lines B-B and B'-B' pass through the outermost limitation points of the absorbent body in the front portion and in the rear end portion. As shown in the rear end portion, or the narrower end portion, of the sanitary napkin in figure 1 the central adhesive string (8) is the same width as the width of the absorbent core in that portion.

It would have been obvious to one of ordinary skill in the art to modify the adhesive of Sturino to provide a central absorbent pad adhesive that has a width that is the same as the width of the absorbent core in order to securely hold the narrow rear part of the absorbent body in a correct position when placing the napkin in a pair of string panties so as to avoid leakage as taught by Drevik on page 1 in paragraphs 0002 and 0003.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sturino.

The difference between Sturino and claim 5 is the provision that the first distal end of the sanitary absorbent article has a width of about 15 mm to 20 mm.

Sturino does disclose a sanitary absorbent article wherein the first distal end has a width of less than 30 mm as set forth in col. 2, lines 37 – 39.

Art Unit: 3761

Absent a critical teaching an/or unexpected result (page 7, lines 10 – 13 of the instant specification), the examiner contends that the claimed limitation would be an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michele Kidwell
May 21, 2004